

RESPONSE

Claims 1, 2, 6, 10-13, 19, 21 and 22 are presently pending in the subject application, with claims. In view of the foregoing amendment, claim 9 is canceled without prejudice, claim 1 is amended to more clearly define the invention over the prior art and claims 2, 6, 10-13 and 19 are amended to make minor grammatical corrections. Applicant respectfully contends that no issue of new matter is presented by the foregoing amendment.

I. **35 U.S.C. 112 Rejection**

Claims 1, 2, 6, 9-13, 19, 21 and 22 are rejected under 35 U.S.C. 112, 2nd paragraph as indefinite. In response thereto, claim 1 has been amended so that the recitation "said surface" recites "said back surface." Since this amendment is believed to make the limitation definite to one of ordinary skill in the art, there is no necessity for a new drawing figure. Accordingly, withdrawal of the rejection is respectfully requested.

II. **35 U.S.C. 102 Rejection**

Claims 1, 2, 6, 9-12, 19 and 21 are rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 2,821,295 to *Marks*.

Applicant respectfully contends that the claims are clearly patentably distinct over the teachings of *Marks* for at least the following reasons.

Notwithstanding the fact that Applicant believes the claims were patentably distinct over the prior art prior to the submission of the aforementioned amendment, independent claim 1 is now amended to more clearly define the invention over the prior art cited by the Examiner, namely, *Marks*.

As presently recited, claim 1 is directed to a garment container which includes, *inter alia*, (1) at least one self-contained (i.e., pre-fabricated) closeable pocket composed of a transparent gas impermeable material for closing a cut-out opening of a vertical side panel of the container, and (2) means for providing access into the interior of the pocket, the means being provided along a top edge of the self-contained closeable pocket.

A. Self-Contained Pocket

One aspect of the invention relates to the self-containing nature of the pocket that facilitates the attachment of the pocket to any particular surface area of a storage container. In particular, the term "self-containing" in the limitation "self-containing closeable container" is used here to mean one that is "independent" in nature. Thus, the pocket of the invention is "independent" or a pre-fabricated prior to being attached to the container. This meaning is supported at least on page 4, lines 6-7 of the Specification section of the instant application, which states:

"In making the pocket of the present invention, the zipper is sewn into the outside nonperforated piece of polyethylene of the pocket and then such nonperforated front piece is sewn to the perforated piece which is exposed to the interior of the bag when the pocket is in place and covers the cut-out portion of the garment bag. The resulting pocket is then sewn into an

opening cut out from any of the gas impermeable surfaces of the garment bag." (emphasis added)

Thus, the independent nature of the self-contained closeable pocket of the claimed invention would permit filling of the pocket with chemical compositions such as moth balls prior to attachment to the container.

Moreover, the pocket of the invention is adapted for attachment to any side, front and rear panel, or top and bottom panel of a container by a suitable fastener. This is also important since the self-containing pocket can be installed in a cut-out opening in any specific area of the garment container in response to the type of chemical composition used to protect the garments. These advantages are recited in the specification of the instant application. As noted on pg. 4, lines 8-20 of the Specification:

"It is believed that placement at the top permits greater dissemination of the chemicals vapors which have the characteristic of gravitating to the bottom so as to provide a greater degree of protection for the garments. For those chemicals which vaporize and which rise upwardly from the perforations the pocket is preferably situated towards a lower section of the container."

On the other hand, *Marks* discloses a compartment 21 that is formed only by its attachment to an opening 16 of a garment bag 11, and thus, is not independent in the meaning provided in the claimed invention, i.e., as shown by the fact that the compartment 21 does not exist until it is attached to the bag. As illustrated in Fig. 3 of *Marks*, and admitted at least on Col. 1, lines 53-55, in which is stated:

"This opening is closed by a supplemental front wall 17, which constitutes one wall part of a compartment forming strip or sheet 18, shown, in part in

perspective, in Fig. 3 of the drawings. This strip or sheet is formed of plastic or other transparent material, the sheet being folded, as indicated at 19, to form a front window wall portion 20 of a resulting compartment 21 to be formed at the opening 16." (emphasis added)

Thus, all side edges of the sheet that forms compartment 21 are not closed or sealed until the sheet is folded and attached to the bag. This would not permit the filling of the folded sheet material with chemical compositions such as moth balls prior to attachment since both side edges are exposed. See, Fig 3. As expressly provided in the teachings of *Marks*, the compartment 21 comes into being upon its formation at the opening 16 of the garment bag 11. Accordingly, one having ordinary skill in the art cannot infer from the explicit teachings of *Marks* that the compartment 21 is "self-containing" or "pre-fabricated" as defined in the pending claims 1 of the present invention.

In view of the foregoing, the present invention as currently defined in amended claim 1, is not anticipated by *Marks*. Careful reconsideration and withdrawal of the rejection of claims 1, 2, 6, 9-12, 19 and 21 is respectfully requested.

B. Location of the Means for Providing Access

Yet another aspect of the invention as presently claimed in amended claim 1 is the provision of a means for providing access into the interior of the pocket, the means for providing access being arranged along a top edge of the pocket. This feature is advantageous in that it maximizes the total area of the container to thereby permit the owner of the container to completely fill the pocket with a chemical composition such as

moth balls or crystals so that more time elapses before replenishing the pocket. See, pages 9 and 10 of the Specification.

Conversely, the *Marks* garment bag also includes a first zipper 23 for providing access into the interior of the compartment 21, the first zipper 23 being arranged along a middle of the compartment 21. See Figs. 1 and 2 of *Marks*. Thus, because the zipper 23 taught in *Marks* is arranged along the middle and not the top edge of the compartment 21 as clearly illustrated in Figs. 1 and 2, the owner of the bag cannot maximize the total volumetric capacity of the compartment 21, i.e., the compartment 21 cannot be completely filled. Instead, the owner must fill the compartment 21 only halfway since gravity will cause any excess moth balls to fall in the upper section of the compartment 21 above the first zipper 23. Consequently, less time elapses before the owner of the *Marks* bag needs to replenish the half-filled compartment 21 with fresh moth balls.

In view of the foregoing, the present invention as currently defined in amended claim 1, is not anticipated by *Marks*. Reconsideration and withdrawal of the rejection of claims 1, 2, 6, 9-12, 19 and 21 is respectfully requested.

III.

35 U.S.C. 103 Rejections

Claim 9 is rejected under 35 U.S.C. 103(a) as unpatentable over *Marks*, claims 13 and 21 are rejected under 35 U.S.C. 103(a) as unpatentable over *Marks* in view of U.S. Patent No. 2,591,277 to *Mintz* ("*Mintz '277*") and claim 22 is rejected under 35 U.S.C.

103(a) as unpatentable over *Marks* in view of U.S. Patent No. 2,619,225 to *Mintz* ("*Mintz* '225").

Applicant respectfully contends that the claims are clearly patentably distinct over the proposed combinations of *Marks* and *Mintz* '277 and *Marks* and *Mintz* '225 for at least the following reasons.

As previously submitted in response to the 35 U.S.C. §102 rejection, *Marks* lacks a container that includes a self-containing pocket or one that includes an access means arranged along a top edge of the pocket.

Marks also lacks any teaching, suggestion, or motivation to combine or modify its teachings with those of *Mintz* '277 or *Mintz* '225 to produce the claimed invention, i.e., a garment container including, *inter alia*, (1) a self-containing pocket or (2) a means for providing access arranged along a top edge of the pocket.

Accordingly, since obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art, *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), the proposed combination of *Marks* and *Mintz* is not capable of rendering the claimed invention obvious under 35 U.S.C. §103 since they each lack the same features of amended independent claim 1.

Notwithstanding the foregoing argument, the secondary references *Mintz* '277 or *Mintz* '225 do not make up for the missing features in *Marks* since they each fail to teach or

disclose a self-containing pocket or a means for providing access arranged along a top edge of the pocket.

For instance, both *Mintz* '277 and *Mintz* '225 merely disclose garment bags having a multi-layered sheet material 22, 24 and 26 combining to form a pocket, and a fastener 40 arranged offset from the center of the pocket for providing access to the space 34 formed in the pocket. Col. 3, lines 60-64; Col. 4, lines 40-52; Figs. 1-3 of *Mintz* '277; Figs. 1-4 of *Mintz* '225.

Thus, the fasteners 40 provided in *Mintz* '277 and *Mintz* '225 are arranged in a totally different location than the means for providing access of amended claim 1. Moreover, the pockets of *Mintz* '277 and *Mintz* '225 are not a "self-contained" pocket since it is expressly disclosed on col. 4, lines 59-63 (*Mintz* '277 and col. 5, lines 63-65 (*Mintz* '225) that "the meeting edges of the various walls are sewn together along the edges of the bag as by the stitching 46," thereby inferring the formation of a pocket upon the multi-layered sheet material 22, 24, 26 being stitched together to the surface of the garment bag.

Therefore, the present invention as currently defined in amended claim 1, is not rendered obvious by the proposed combination of *Marks* and *Mintz*. Reconsideration and withdrawal of the rejection of claims 9, 13, 21 and 22 is respectfully requested.

In view of the foregoing remarks, Applicant respectfully contends that the pending claims are in condition for allowance.

In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the Examiner would telephone the

U.S. Patent Serial No. 09/971,625
Art Unit 3727
Page 13

undersigned attorney concerning such questions so that prosecution of the instant application may be expeditiously closed.

Respectfully submitted,

BRENEMAN & GEORGES

A handwritten signature in black ink, appearing to read "TA. VD" followed by a horizontal line.

Todd A. Vaughn
Registration No. 52,319